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**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION**

PAUL RUMMELL and BENJAMIN WEST;
LISA CHICKADONZ and CHRISTINE TANNER;
BASIC RIGHTS EDUCATION FUND,

Plaintiffs,

v.

JOHN KITZHABER, in his official
capacity as Governor of Oregon; ELLEN
ROSENBLUM, in her official capacity as Attorney
General of Oregon; JENNIFER WOODWARD, in
her official capacity as State Registrar, Center for
Health Statistics, Oregon Health Authority, and
RANDY WALRUFF, in his official capacity as
Multnomah County Assessor,

Defendants.

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No. 6:13-cv-02256-MC

**NOTICE OF SUPPLEMENTAL
AUTHORITIES**

By Plaintiffs Paul Rummell,
Benjamin West, Lisa Chickadonz,
Christine Tanner, and
Basic Rights Education Fund

DEANNA L. GEIGER and JANINE M.
NELSON; ROBERT DUEHMIG and
WILLIAM GRIESAR,

No. 6:13-cv-01834-MC

Plaintiffs,

v.

JOHN KITZHABER, in his official
capacity as Governor of Oregon; ELLEN
ROSENBLUM, in her official capacity as Attorney
General of Oregon; JENNIFER WOODWARD, in
her official capacity as State Registrar, Center for
Health Statistics, Oregon Health Authority, and
RANDY WALRUFF, in his official capacity as
Multnomah County Assessor,

Defendants.

Plaintiffs Paul Rummell, Benjamin West, Lisa Chickadonz, Christine Tanner, and Basic Rights Education Fund (collectively, the “Rummell plaintiffs”) hereby respectfully submit notice to the Court of the following supplemental authorities relevant to the pending motions for summary judgment.

I. *DeLeon v. Perry*

On February 26, 2014, in the case *DeLeon v. Perry*, Judge Orlando L. Garcia of the U.S. District Court for the Western District of Texas granted plaintiffs’ motion for a preliminary injunction based on a determination that the Texas constitutional amendment and statutes excluding same-sex couples from marriage and from recognition of their marriages violated plaintiffs’ equal protection and due process rights. No. SA-13-CA-00982-OLG, 2014 WL 715741 (W.D. Tex. Feb. 26, 2014). Judge Garcia stayed the effect of this decision pending resolution of its appeal, based on defendants’ prior indications that they anticipated appealing an unfavorable decision. *See id.* at *27. On February 27, 2014, defendants Richard Perry, in his

official capacity as Governor of Texas, and David Lakey, in his official capacity as Commissioner of the Texas Department of Health Services, appealed the decision to the U.S. Court of Appeals for the Fifth Circuit.

II. *Tanco v. Haslam*

On March 14, 2014, Judge Aleta A. Trauger of the U.S. District Court for the Middle District of Tennessee granted plaintiffs' motion for preliminary injunction in *Tanco v. Haslam*, finding that Tennessee's constitutional amendment and statutes excluding same-sex couples from recognition of their marriages violated plaintiffs' right to equal protection. *Tanco v. Haslam*, 3:13-CV-01159, 2014 WL 997525 (M.D. Tenn. Mar. 14, 2014). On March 18, 2014, defendants William Haslam, in his official capacity as Governor of Tennessee, Larry Martin, in his official capacity of the state's Department of Finance and Administration, and Robert E. Cooper, Jr., in his official capacity as Tennessee Attorney General, appealed this decision to the U.S. Court of Appeals for the Sixth Circuit and moved in the district court to stay its effect. On March 20, 2014, Judge Trauger denied the motion to stay. *Tanco & Jesty v. Haslam*, No. 3:13-CV-01159, 2014 WL 1117069 (M.D. Tenn. Mar. 20, 2014).

III. *DeBoer v. Snyder*

On March 21, 2014, following a bench trial in the case *DeBoer v. Snyder*, Judge Bernard Friedman of the U.S. District Court for the Eastern District of Michigan held that the Michigan constitutional amendment and statutes excluding same-sex couples from marriage violated equal protection, and enjoined enforcement of Michigan's marriage bans. *DeBoer v. Snyder*, 12-CV-10285, 2014 WL 1100794 (E.D. Mich. Mar. 21, 2014). That same day, defendant Richard Snyder, in his official capacity as Governor of Michigan, appealed this decision to the U.S. Court of Appeals for the Sixth Circuit and moved for an emergency stay of its effect. The Sixth Circuit granted a temporary stay on March 22, 2014. On March 25, 2014, by a 2-to-1 vote, a Sixth

Circuit panel extended this stay pending ultimate resolution of the case by the Sixth Circuit.

IV. *Henry v. Himes*

On April 14, 2014, in the case of *Henry v. Himes*, Judge Timothy Black of the U.S. District Court for the Southern District of Ohio granted plaintiffs' motion for permanent injunction and declaratory judgment, based on findings that Ohio's constitutional amendment and statutes excluding same-sex couples from marriage and from recognition of their marriages violated plaintiffs' rights to equal protection and due process. *Henry v. Himes*, 1:14-CV-129, 2014 WL 1418395 (S.D. Ohio Apr. 14, 2014) Defendant Lance Himes, in his official capacity as Interim Director of the Ohio Department of Health, moved to stay the decision pending his planned appeal to the U.S. Court of Appeals for the Sixth Circuit. On April 16, 2014, Judge Black granted the motion in part.

V. *Bostic v. Rainey* and *Harris v. Rainey*

The Rummell Plaintiffs cited in their motion for summary judgment a February 13, 2014, opinion in the Eastern District of Virginia case *Bostic v. Rainey* holding that the Virginia constitutional amendment and statutes excluding same-sex couples from recognition of their marriages violated plaintiff's rights to equal protection and due process. On February 24, defendant George E. Schaefer III, in his official capacity as Clerk of the Norfolk Circuit Court, and defendant-intervenor Michele McQuigg, in her official capacity as Clerk of the Prince William County Circuit Court, appealed the *Bostic* ruling to the U.S. Court of Appeals for the Fourth Circuit. On February 26, 2014, the named plaintiffs in *Harris v. Rainey*, a separate case filed in the Western District of Virginia and subsequently certified as a class action encompassing all same-sex couples in Virginia, moved to intervene in the *Bostic* litigation on

appeal. The Fourth Circuit granted the *Harris* plaintiffs' motion to intervene in *Bostic* on March 10, 2014. *Bostic v. Rainey*, No. 14-1169, Dkt. 38 (4th Cir. Mar. 10, 2014). On March 31, 2014, Judge Michael F. Urbanski stayed *Harris* pending resolution of *Bostic*, noting that the *Harris* plaintiffs' intervention in litigation addressing the same constitutional questions at the Fourth Circuit provided those plaintiffs a more direct path to ultimate resolution of those questions. *Harris v. Rainey*, 5:13CV00077, 2014 WL 1292803 (W.D. Va. Mar. 31, 2014).

VI. *Bourke v. Beshear*

The Rummell Plaintiffs cited in their motion for summary judgment a February 12, 2014, opinion in *Bourke v. Beshear* holding that the Kentucky constitutional amendment and statutes excluding same-sex couples from recognition of their marriages violated equal protection. Judge John G. Heyburn II issued a final order consistent with that opinion on February 27, 2014. On March 18, defendant Steve Beshear, in his official capacity as Governor of Kentucky, appealed the Court's order to the U.S. Court of Appeals for the Sixth Circuit. On March 19, Judge Heyburn granted defendant Beshear's motion for a stay of the district court decision pending resolution at the Sixth Circuit. *Bourke v. Beshear*, No. 3:13-CV-750-H, 2014 WL 556729 (W.D. Ky. Feb. 12, 2014; updated March 19, 2014).

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5- NOTICE OF SUPPLEMENTAL AUTHORITIES

DATED: April 21, 2014

s/ Thomas R. Johnson

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